

Notice of Allowability

Application No.

10/773,983

Applicant(s)

FELDSTEIN ET AL.

Examiner

Fred Ferris

Art Unit

2128

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 18 December 2006.
2. ☒ The allowed claim(s) is/are 1,3-9,11-16,26 and 28-31.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 20070109.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


FRED FERRIS
PRIMARY EXAMINER
TECHNOLOGY CENTER 2100

DETAILED ACTION

1. *Claims 1-31 have been presented for examination based on applicant's disclosure filed 18 December 2006. Applicants have now cancelled claims 2, 10, and 27. Claims 17-25 are cancelled by the Examiners' Amendment of record below. Claims 1, 3-9, 11-16, 26, and 28-31 remain pending in this application and have now been allowed over the prior art of record.*

EXAMINER'S AMENDMENT

2 *An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.*

Authorization for this examiner's amendment was given in a telephone interview with Mr. Ratlif (for J. Hao) on January 9, 2007.

Amend the claims as follows:

*Claims 17-25 are **cancelled**.*

Correct the dependence of claims 3, 5, and 6 as follows:

*In the first line of claim 3 (now renumbered 2) **delete** the number 2 and **insert** the number 1 after the word "Claim".*

*In the first line of claim 5 (now renumbered 4) **delete** the number 2 and **insert** the number 1 after the word "Claim".*

*In the first line of claim 6 (now renumbered 5) **delete** the number 5 and **insert** the number 4 after the word "Claim".*

Correct the dependence of claim 29 as follows:

*In the first line of claim 29 (now renumbered 17) **delete** the number 27 and **insert** the number 15 after the word "Claim".*

Response to Arguments

3. *Applicant's arguments filed 18 December 2006 with respect to the pending claims have been fully considered and are persuasive.*

Regarding applicant's response to claim objections: The examiner withdraws the claim objection in view of applicant's amendment to the claims.

Regarding applicant's response to 101 rejections: The examiner withdraws the 101 rejections in view of applicant's amendment to the claims and supporting arguments filed 18 December 2006.

Regarding applicant's response to 102/103 rejections: The examiner withdraws the previous 102/103 rejections in view of applicant's amendment to the claims, supporting arguments filed 18 December 2006, and the Examiner's Amendment of record appearing below.

Allowable Subject Matter

4. *Claims 1, 3-9, 11-16, 26, and 28-31 are allowed over the prior art of record.*

The following is an examiner's statement of reasons for allowance:

Applicants are disclosing a method and system for generating a simulated network topology inclusive of a graphical user interface for creating device connections and automatically generating a simulated network based on the devices and connections. This has been disclosed in the prior art of record.

While these elements are individually disclosed in the prior art, the prior art of record does not meet the conditions as suggested in MPEP section 2132, namely:

*"The identical invention must be shown in as complete detail as is contained in the ... claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an **ipsissimis verbis** test, i.e., identity of terminology is not required. **In re Bond**, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990)."*

*In particular, the prior art does not disclose the specific sequence of steps or arrangement of elements relating to receiving a network topology generated at a graphical user interface and automatically generating a file describing the simulated network topology **in combination with** the elements of accessing a neighbor discovery protocol table for the devices and subsequently compiling the static and connection information into a build file, as now required by independent claims 1, 9, and 26. The closest prior art uncovered during examination teaches certain limitations of the claimed invention as follows:*

- *OPNET Modeler, Product Description: teaches the OPNET Modeler network simulator and modeling tool used for the development and analysis of communications network topology via a GUI based user*

interface. However, OPNET does not explicitly disclose the additional combination of accessing a neighbor discovery protocol table for the network devices and subsequently compiling the static and connection information into a build file as now required by independent claims 1, 9, and 26.

- U.S. Patent 6,714,217 issued to Huang et al: teaches method and system for generating a simulated network inclusive of network topology generated by user interface GUI of network devices, but again, does not explicitly disclose the additional combination of accessing a neighbor discovery protocol table for the network devices and subsequently compiling the static and connection information into a build file as now required by independent claims 1, 9, and 26.

Independent claim 26 further uses “means for” language and is given deference in view of In re Donaldson and interpreted in view of 35 U.S.C. § 112 paragraph 6. The “means for” language and the limitations related thereto of claims 26 us interpreted within the scope of enablement as provided within the relative embodiment provided within applicant’s specification.

The features noted above therefore render the claimed invention non-obvious over the prior art of record. Dependent claims 3-8, 11-16, and 28-31 are deemed allowable as depending either directly or indirectly from independent claims 1, 9, and 26.

Art Unit: 2128

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. *Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Ferris whose telephone number is 571-272-3778 and whose normal working hours are 8:30am to 5:00pm Monday to Friday. Any inquiry of a general nature relating to the status of this application should be directed to the group receptionist whose telephone number is 571-272-3700. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamini Shah can be reached at 571-272-2279. The Official Fax Number is: (571) 273 8300*

*Fred Ferris, Primary Examiner
Simulation and Emulation, Art Unit 2128
U.S. Patent and Trademark Office
Randolph Building, Room 5D19
401 Dulany Street
Alexandria, VA 22313
Phone: (571-272-3778)
Fred.Ferris@uspto.gov
January 9, 2007*

Fred Ferris
FRED FERRIS
PRIMARY EXAMINER
TECHNOLOGY CENTER 2100